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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/091,797

03/06/2002

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IBM 0116

8935

7590

01/30/2006

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EXAMINER

TODD, GREGORY G

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/091,797	FRUCHTMAN ET AL.	
	Examiner	Art Unit	
	Gregory G. Todd	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is a second office action in response to applicant's response filed 07 November 2005, to Examiner's non-responsive action to amendment filed, 18 July 2005, of application filed, with the above serial number, on 06 March 2002 in which no claims have been amended. Claims 1-20 are therefore pending in the application.

It is noted Applicant has not responded to the rejections of claims 7 and 17 and the Gamradt prior art. However, to avoid delaying prosecution even more, Examiner assumes Applicant traverses this rejection as well.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the token; a LAN-free and server-free path in Fig. 1; further, method claims 1-12 demand a flowchart to follow in the drawings must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

Art Unit: 2157

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 13 recite the limitation "said data to be restored" in line 7. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2157

5. Claims 1-6, 8-16, and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Dunham et al (hereinafter "Dunham", 6,714,952).

As to claim 1, Dunham teaches a method of restoring data in a computer network system wherein a plurality of client systems have access to a storage pool coupled to an associated storage area network (SAN) (at least col. 3 line 66 - col. 4 line 11) comprising the steps of:

requesting a restore wherein each of said plurality of client systems may participate in said restore (at least col. 10, lines 11-27; receiving request for data to be restored); and

coordinating access to said data stored in said storage pool by tracking a plurality of data portions of said data to be restored and by blocking access to each of said plurality of data portions that have been restored by one of said plurality of client systems to avoid duplicative restoration efforts (at least col. 10, lines 11-59; col. 5, lines 63-67; determining appropriate data to be restored according to system/ metadata/ catalogue, and cleaning up/ de-allocation).

As per Claim 2, wherein said coordinating access step occurs during a plurality of sessions (at least col. 8, lines 10-33; eg. file-by-file basis).

As per Claim 3, wherein said coordinating access step is interruptible (at least col. 8, lines 10-33; col. 5, lines 35-42; eg. file-by-file basis/ scheduler).

As per Claim 4, constructing a master restore table comprising said plurality of data portions to be restored and an associated location of said plurality of data portions

Art Unit: 2157

in said storage pool (at least col. 4, lines 1-11; col. 5 line 26- col. 6 line 11; catalogue having information on data stored in backup storage devices and backup/restore server).

As per Claim 5, wherein said storage pool comprises a plurality of storage devices and said associated location of said data portions includes a location in one of said storage devices (at least col. 4, lines 1-11; Fig. 1).

As to claim 6, wherein said data portions are provided concurrently from said plurality of storage devices to a target restoration device (at least Fig. 1; col. 4, lines 1-11; eg. central backup/restore server through which all data goes).

As per Claim 8, wherein said master restore table is identified by an associated token and a client system participating in a restore gains access to said master restore table by use of said token (at least col. 5 line 63 - col. 6 line 11).

As per Claim 9, deleting master restore table after restoration of a target restoration device is complete (at least col. 10, lines 55-59).

As per Claim 10, wherein said constructing step further comprises automatically partitioning said plurality of data portions in said master restore table based on said associated location of said plurality of data portions in said storage pool (at least col. 4, lines 1-64; col. 5 line 35 - col. 6 line 34).

Art Unit: 2157

As per Claim 11, wherein said coordinating access step occurs before said master restore table is fully constructed (at least col. 4, lines 1-64; col. 5 line 35 - col. 6 line 34).

As per Claim 12. The method of claim 4, wherein said master restore table is saved in a storage management server, said storage management server coupled to said SAN (at least col. 3 line 66 - col. 4 line 11).

Claims 13-16 and 18-20 do not add or define any additional limitations over claims 1-6 and 8-12 and therefore are rejected for similar reasons.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunham et al (hereinafter "Dunham", 6,714,952) in view of Derek Gamradt, "Backup without disruption: LAN-free, server-free SAN backup avoids disrupting business", (hereinafter "Gamradt").

Dunham doesn't explicitly teach "a LAN-free path or a server-free path". However, Gamradt teaches LAN-free, server-free SAN backup avoids disrupting business. Gamradt does teach data representative of a LAN-free path or a server-free

Art Unit: 2157

path from a client to a storage pool (pages 1-5). It would have been obvious for one of ordinary skill in the art at the time of the invention was made to modify Dunham by having master restore table comprising data representative of a LAN-free path or a server-free path from a client to storage pool since doing so would allow data transferring between a client and storage pool without hindering LAN performance and without affecting standard network operations, as Gamradt teaches improving overall LAN performance, reducing administration costs, and enhancing the storage processes.

### ***Response to Arguments***

8. Applicant's arguments, see pp. 4-8, filed 07 November 2005, with respect to the rejection(s) of claim(s) 1-6, 8-16, and 18-20 under Dang in view of Tam have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Dunham.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newly cited Arakawa et al in addition to previously cited Gill et al, Fletcher et al, Yao et al, and Kopper are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.




Art Unit: 2157


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G. Todd whose telephone number is (571)272-4011. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm w/ first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory Todd   
Patent Examiner

Technology Center 2100

  
ARIO ETIENNE  
PRIMARY EXAMINER